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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/818,239	03/14/97	TAYANAKA H	P97.0027

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MM31/0520

EXAMINER
CHRISTIANSON, K

ART UNIT	PAPER NUMBER
2813	

DATE MAILED: 05/20/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/818,239

Applicant(s)
Tayanaka

Examiner
Keith Christianson

Group Art Unit
2813



☒ Responsive to communication(s) filed on Apr 8, 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-25 is/are pending in the application.

Of the above, claim(s) 17-25 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-16 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Specification

1. Applicant's amendment of the specification corrects the minor problems noted by the examiner in the first Office Action. Accordingly, the objection to the specification is withdrawn.

Claim Rejections - 35 USC § 112

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Applicant's amendment of claims 5 and 6 corrects the problems related to 35 U.S.C. 112 second paragraph, and accordingly the rejections under 35 U.S.C. 112, second paragraph are withdrawn for these claims.

Claim Rejections - 35 USC § 103

4. Claims 1-4 and 7-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsushita et al. (U.S. Patent No. 5,811,348) for reasons for record given in paragraph #6 of the last Office action.

Applicant's arguments filed concerning these claims have been fully considered but they are not persuasive. One of ordinary skill in the art would recognize that the mere repetition of elements is obvious (In re Harza, 124 USPQ 378 (CCPA 1960)), and thus one of ordinary skill in

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the art would anticipate the fabrication of multiple layers of porous semiconductor in order to facilitate the growth and removal of the semiconductor film from the substrate, with the separation taking place at the weakest location, i.e. the most porous layer.

Double Patenting

5. Claims 1-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 5,811,348 as detailed in paragraph 8 of the last Office action. Although the conflicting claims are not identical, they are not patentably distinct from each other because one of ordinary skill in the art would recognize that the mere repetition of elements is obvious (*In re Harza*, 124 USPQ 378 (CCPA 1960)). In this instant application, the fabrication of multiple porous layers where the cleavage always takes place in the most porous layer followed by crystal growth is an obvious variation of the fabrication of a single porous layer followed by cleavage in the porous layer and subsequent crystal growth.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

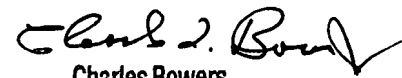
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keith Christianson whose telephone number is (703) 305-4029. The examiner can normally be reached on Monday-Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Bowers, can be reached on (703) 308-2417. The fax phone number for this Group is (703) 308-7722.

KC

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May 17, 1998


Charles Bowers
Supervisory Patent Examiner
Technology Center 2800